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Letter dated 21 June 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached addendum to the report from Morocco submitted pursuant to resolution 1624 (2005) (see annex). I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 20 April 2006 from the Permanent Representative of Morocco to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

[Original: French]

Further to the foregoing communications, I have the honour to transmit herewith additional information on the counter-terrorism measures taken, in accordance with the provisions of resolution 1624 (2005), by the Kingdom of Morocco (see enclosure).

(*Signed*) El Mostafa **Sahel**

Enclosure

Report sheet on the implementation of resolution 1624 (2005)

Paragraph 1

1.1 What measures does Morocco have in place to prohibit by law and to prevent incitement to commit a terrorist act or acts? What further steps, if any, are under consideration?

The Kingdom of Morocco has amended its criminal law to take into consideration terrorist acts and advocacy of terrorism as specific criminal offences. Thus article 218-2 of Act 03-03 of 28 May 2003 amending the Penal Code formally establishes:

> "Advocacy of acts constituting terrorist offences by speeches, shouts or threats uttered in public places or meetings, or by writings and printed matter sold, distributed or offered for sale or exhibited in public places or meetings, or by public messages using various audiovisual and electronic media shall be punishable by two to six years' imprisonment and a fine of 10,000 to 200,000 dirhams."

It should also be noted in this context that article 128 of the Penal Code deals in a general manner with complicity in any criminal offence (including terrorist acts) as follows:

> "The following shall be considered as accomplices to a serious or minor offence without directly participating in the offence:
>
> 1. Persons who, by gifts, promises, threats, abuse of authority or power, machinations or trickery, directly incited such an act or gave instructions that it should be committed."

Article 130 of the Penal Code establishes that an accomplice to a serious or minor offence is liable to the punishment for that serious or minor offence.

1.2 What measures does Morocco take to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts?

The Kingdom of Morocco has never granted safe haven to such persons. On the contrary, with respect to criminal acts under Moroccan law punishable by a prison term of more than one year, individuals proved to have been involved are liable to extradition if they are aliens or, if they are non-extraditable nationals, to criminal prosecution in Morocco, even if the acts were committed abroad, in accordance with the Moroccan Code of Criminal Procedure.

In any case, article 3 of the Royal Decree (Dahir) on reasoned judicial decisions requires members of the judiciary to explain the reasoning underlying their decisions.

Furthermore, article 4 of Act 02-03 on the entry and stay of aliens in the Kingdom of Morocco and illegal emigration and immigration establishes that: "Access to Moroccan territory may also be refused in the case of any alien whose

presence would constitute a threat to public order or who has been either banned from the territory or deported."

In this regard, by definition, a terrorist act is considered by the Penal Code to be a serious breach of public order.

Lastly, persons suspected of financing terrorism may also be under suspicion for acts of advocacy or incitement of terrorism. From this perspective, it should be noted that the list of individuals compiled by the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities is reflected in the wanted persons files of the Criminal Investigation Department, with the instructions "entry into Morocco prohibited".

Paragraph 2

1.3 How does Morocco cooperate with other States in strengthening the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act or acts from entering their territory, including by combating fraudulent travel documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures?

Because of its proximity to Europe, the Kingdom of Morocco is a coveted location for potential illegal emigrants. Consequently, our country is conducting a merciless campaign against illegal migration organized by mafia networks.

It goes without saying that the channels established by illegal migration mafias could be used by persons convicted of terrorism to enter Morocco, prompting increased vigilance on the part of the competent Moroccan services to prevent any infiltration.

Morocco has lifted visa requirements for Algerian nationals wishing to visit Morocco. This measure is intended, inter alia, to improve monitoring of the land borders between the two countries and to combat illegal migration and smuggling.

The Royal Gendarmerie and the Spanish Guardia Civil regularly conduct joint patrols to combat the phenomenon by sea.

With respect to combating document fraud, the Criminal Investigation Department systematically issues police bulletins concerning national or foreign passports reported stolen or missing, which are consulted by the police at border points. This measure is aimed at preventing the use of these documents for cross-border movements by wanted or ill-intentioned persons, including illegal migrants.

The Criminal Investigation Department is also in the process of finalizing a border police linkage project through the Interpol I-24/7 global police communications system to enable it to cross-check all identity documents of persons entering or leaving the Kingdom against the Interpol database for lost or stolen documents.

Concerning the security of airline passengers in particular, a special squad has been established to ensure the safety of the passengers aboard and of the aircraft.

With respect to maritime security, it should be noted that Morocco has applied the International Ship and Port Facility Security (ISPS) Code to ensure port facility security.

Paragraph 3

1.4 What international efforts is Morocco participating in or considering participating in/initiating in order to enhance dialogue and broaden understanding among civilizations in an effort to prevent the indiscriminate targeting of different religions and cultures?

Freedom of religion is universally guaranteed and enshrined in the Moroccan Constitution of 1996. The Kingdom of Morocco is a signatory of the international conventions to combat all forms of discrimination, including religious discrimination.

The Kingdom of Morocco has taken specific legal measures during the past few years to prohibit any manifestation of discrimination. They include:

– Article 2 of Dahir No. 1-58-376 of 3 Jumada I A.H. 1378 (15 November 1958) regulating the right of association, as amended by Dahir No. 1-02-206 of 12 Jumada I A.H. 1423 (24 July 2002), establishes that:

> "Any association pursuing a cause or an objective which is illicit or contrary to the law and morality or which aims at undermining the Islamic religion, national territorial integrity or the monarchy or at inciting discrimination shall be void."

– Article 3 of Dahir No. 1-58-378 of 3 Jumada I A.H. 1378 (15 November 1958) promulgating the Press and Publishing Code, supplemented by Act 77-00 enacted by Dahir No. 1-02-207 of 25 Rajab A.H. 1423 (3 October 2002), stipulates:

> "Anyone using one of the means mentioned in article 38 to incite racial discrimination, hatred or violence against one or more persons on grounds of race, origin, colour or ethnic or religious affiliation, or supporting war crimes and crimes against humanity, shall be punished by imprisonment for a term of one month to one year and a fine of 3,000 to 30,000 dirhams, or by only one of these two penalties."

– The Penal Code was supplemented by Act 24-03 promulgated by Dahir No. 1-03-207 of 16 Ramadan A.H. 1424 (11 November 2003), adding section II bis entitled "Discrimination", defined in article 431-1, as follows:

> "Any distinction among individuals based on national or social origin, colour, sex, family status, state of health, disability, trade union membership, or affiliation or non-affiliation, whether actual or assumed, with a specific ethnic group, nation, race or religion shall constitute discrimination."

Under article 431-1, discrimination is punishable by imprisonment for one month to two years.

1.5 What steps is Morocco taking to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent subversion of educational, cultural and religious institutions by terrorists and their supporters?

The aforementioned Act 03-03 criminalizes incitement of terrorist acts. The penal provisions concerning discrimination are aimed at criminalizing extremist and intolerant speech. Morocco has concluded from its experience in combating terrorism that terrorists tend to attack tourist establishments frequented by foreigners rather than educational, cultural or religious institutions.

Nevertheless, these institutions are the subject of ongoing attention and surveillance on the part of the Moroccan authorities, particularly the services of the Criminal Investigation Department, including patrols by uniformed officers as well as undercover patrols by plain-clothes officers.

Paragraph 4

1.6 What is Morocco doing to ensure that any measures taken to implement paragraphs 1, 2 and 3 of resolution 1624 (2005) comply with all of its obligations under international law, in particular international human rights law, refugee law and humanitarian law?

The Kingdom of Morocco has underscored its complete adherence to international human rights instruments in the preamble to the Constitution of 1996. In the hierarchy of norms, international commitments prevail over domestic law. The Constitutional Council rules on whether the law adopted is in keeping with the Constitution. The measures taken to combat terrorism as well as discrimination have followed this procedure, which is intended to protect human rights against any abuse.

Moreover, it should be noted that in Morocco civil society, represented by human rights organizations, is very active in defending the progress made in this area.